

Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA

INFO AMEMBASSY BUENOS AIRES

AMEMBASSY LA PAZ

AMEMBASSY QUITO

AMEMBASSY PANAMA

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E.O. 11652:N/A

TAGS: EAIR, PE

SUBJECT: BRANIFF'S DOMESTIC U.S. PROBLEM

REF: LIMA 2238

1. AS REPORTED IN THE PRESS, THE CAB'S BUREAU OF ENFORCEMENT ON MARCH 12 DOCKETED A COMPLAINT AGAINST BRANIFF TOGETHER WITH A PETITION REQUIRING THAT AN ANSWER TO THE COMPLAINT BE FILED WITHIN 15 DAYS (MARCH 27) OF THE ISSUANCE OF THE PETITION. BRANIFF HAS NOT YET REPLIED.

2. THE COMPLAINT IS DIRECTED AGAINST BRANIFF AND THE FOLLOWING INDIVIDUALS: HARDING LAWRENCE, CHAIRMAN OF THE BOARD; C. EDWARD ACHER, PRESIDENT; ROBERT H. BURCK, EXECUTIVE V.P., PUBLIC AFFAIRS; JOHN CASEY, V.P., SALES AND OPERATIONS; CHARLES S. SOUTH, V.P., LATIN AMERICAN DIVISION;

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CAMILO FABREGA, REGIONAL V.P., PANAMA. IT IS BASED IN PART

UPON A JANUARY 30, 1974 COMPLAINT OF AVIATION CONSUMER ACTION PROJECT, A RALPH NADER ORGANIZATION.

3. THE COMPLAINT CHARGES THAT ON OR BEFORE OCTOBER 1969, BRANIFF WITH KNOWLEDGE AND CONSENT OF ABOVE NAMED INDIVIDUALS, DISREGARDED ITS NORMAL TICKETING PROCEDURES IN

ORDER TO CIRCUMVENT NORMAL INTERNAL CONTROL OVER PROCEEDS OF TICKET SALES WITH RESPECT TO AT LEAST 3626 BRANIFF TICKETS. THESE TICKETS WERE ALLEGEDLY DISTRIBUTED TO LOCAL BRANIFF OFFICES, PRIMARILY IN ITS LATIN AMERICAN DIVISION THROUGH SOUTH. PROCEEDS FROM THEIR SALE (AT LEAST \$641,285) WERE FOR USE BY BRANIFF'S MANAGEMENT, AS THEY SAW FIT. ON OR ABOUT APRIL 6, 1972, \$40,000 OF THIS MONEY WAS UNLAWFULLY PAID TO FINANCE COMMITTEE TO REELECT THE PRESIDENT. BURCH, CASEY, SOUTH AND FABREGA ARE IMPLICATED IN ARRANGING THE SECRET CAMPAIGN CONTRIBUTION.

4. THE COMPLAINT URGES THAT THE FOLLOWING AFFIRMATIVE ACTION SHOULD BE TAKEN:

A) BRANIFF SHOULD SUBMIT TO THE CAB A DETAILED AND VERIFIED ACCOUNTING OF THE FUNDS GENERATED BY THE SALE OF UNACCOUNTED FOR TICKETS AND A STATEMENT OF CORRECTIVE ACTION TAKEN TO RESTORE TO BRANIFF ALL FUNDS IMPROPERLY DISBURSED SINCE 1969.

B) IF THE CAB DETERMINES THAT BRANIFF AND ONE OR MORE INDIVIDUALS NAMED IN THE COMPLAINT HAVE VIOLATED THE FEDERAL AVIATION ACT, THE CAB SHOULD INITIATE PROCEEDINGS TO DETERMINE:

(1) WHETHER BRANIFF WITH ITS PRESENT MANAGEMENT REMAINS FIT, WILLING, AND ABLE TO CONFORM TO THE APPLICABLE STATUTORY PROVISIONS WITH RESPECT TO AIR TRANSPORTATION IN GENERAL, AND TO AIR TRANSPORTATION WITHIN LATIN AMERICA;

(2) WHETHER BRANIFF'S AUTHORITY TO CONTINUE IN AIR TRANSPORTATION SHOULD BE AMENDED FOR SUCH TIME AS ITS PRESENT LIMITED OFFICIAL USE

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MANAGEMENT REMAINS IN CONTROL, OR BE REVOKED FOR INTENTIONAL FAILURE TO COMPLY WITH APPLICABLE LAWS;

(3) WHETHER ANY AIR CARRIER OTHER THAN BRANIFF SEEKS TO PERFORM, AND IS FIT, WILLING, AND ABLE TO PERFORM AIR TRANSPORT SERVICES BEING OPERATED BY BRANIFF, INCLUDING THOSE IN LATIN AMERICA.

5. COMPLAINT DOES NOT CONSTITUTE CAB ACTION. BOARD MUST
NOW DETERMINE WHETHER ANY VIOLATIONS HAVE BEEN COMMITTED
AND WHETHER RELIEF REQUESTED IN 4. B) (1), (2) AND (3)
SHOULD BE GRANTED. KISSINGER

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